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SUBJECT Robert Gates' Confirmation Hearings

TOM BROKAW: The Acting Director of the CIA admits the Agency broke its own rules in the Iran affair.

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BROKAW: Many of the key questions in the whole Iran-Contra affair involve the CIA. Among those questions: Did the Agency deliberately keep from Congress information about the secret arms shipments? Did it break its own rules? Yes, says the man who has been named by President Reagan to head the Agency now. Acting CIA Director Robert Gates appeared before the Senate Intelligence Committee today for confirmation hearings on his appointment to succeed William Casey.

As NBC's John Dancy reports tonight, his testimony revealed some major faults in CIA behavior.

JOHN DANCY: Gates is a career intelligence analyst who's never been involved in the CIA's cloak-and-dagger operations. He's an intelligence bureaucrat who showed himself to be as cautious as his gray suit. He quickly told the committee what it wanted to hear: that the CIA made mistakes in the Iran arms deal.

ROBERT GATES: The entire undertaking was a unique activity that we are all determined not to repeat.

DANCY: Vice Chairman William Cohen of Maine pressed him: What would Gates have done about the Iran arms sale if he had been CIA Director?

SENATOR WILLIAM COHEN: Would you, after weighing all of

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those questions, have recommended support of that finding?

GATES: I would probably have recommended against it.

SENATOR COHEN: I'm sorry?

GATES: I probably would have recommended against it.

DANCY: Gates assured the committee he would contemplate resignation if the President refused to accept his advice to notify Congress of some future covert action.

It was Gates who told the Intelligence Committee last December that he had first heard of the diversion of funds to the Contras in October, seven weeks before it came to light publicly. Today the committee wanted to know why he didn't inform Congress when he first heard of it.

GATES: I regarded what little information I had as worrisome, but extraordinarily flimsy.

DANCY: By law, Gates is supposed to report any illegal intelligence activity to Congress. Sam Nunn of Georgia wanted to know, did that include intelligence activity by the National Security Council?

GATES: My own view has never been that the NSC was an intelligence entity.

SENATOR SAM NUNN: Then we've got a serious problem in the law, wouldn't you say?

GATES: I think that the question...

SENATOR NUNN: I mean the obvious thing to do is just to shift everything questionable over to the NSC, and let 'er roll.

GATES: Senator, it seemed to me that the activity that they were undertaking was primarily a diplomatic initiative, for which we were providing operational support.

SENATOR NUNN: Running guns...

GATES: Making arrangements...

SENATOR NUNN: ...covertly to Iran is a diplomatic activity?

GATES: Well, I wouldn't characterize it that way.

DANCY: Later, however, Gates thought about it and

conceded he did have a responsibility to report any illegal activity, even at the NSC.

The Iran arms deal dominated today's questioning, and it will dominate tomorrow's. Late today the committee decided to hold a second day of hearings to question Gates further about the arms deal.